



CONTRACTOR'S TECHNICAL ASSISTANCE GUIDE

Affirmative Action Program

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INTRODUCTION:

Equal Employment Opportunity (EEO) requirements not to discriminate, and to take affirmative action to assure EEO, are set forth under Executive Order (E.O.), law (23 USC 140), regulations (23 CFR 200/230/635, 28 CFR 35, 29 CFR 1630 and 41 CFR 60) and orders of the Secretary of Labor. As imposed pursuant to E.O. and 23 USC 140, these requirements constitute the EEO/AA standards of non-exempt Federal-Aid construction contracts in excess of \$10,000. E.O. and 23 USC requirements must co-exist for a comprehensive program. Both authorities have the same objective, a major difference in implementation is that E.O. allows for “make whole” remedies/action while 23 USC does not. EEO/AA is the law; therefore, it becomes the responsibility of both TDOT, and firms with highway construction contracts with TDOT, to implement and monitor programs that ensure EEO/AA in all non-exempt construction contractual activities.

The Federal Highway Administration’s (FHWA) Regulation 23 CFR provides the basis for contractual obligations and the contract compliance programs that must be established by the State to monitor contractor’s compliance with those obligations. EEO/AA requirements are specifically addressed through the inclusion of TDOT Contract Special Provision 1230 (Form FHWA-1273) in all non-exempt federal-aid construction contracts. In addition, TDOT Contract Special Provision 1231 is included to address the E.O. “Standard Federal Equal Employment Opportunity Construction Contract Specifications” that outline the sixteen (16) EEO/AA steps contractors shall take to ensure EEO for their workforce.

TDOT has the more expedient means for enforcement of EEO/AA requirements through implementation of these contract provisions. However, the program is also enforceable through law by referral to appropriate agencies to include the Department of Transportation’s (DOT) Federal Highway Administration (FHWA), the Department of Labor’s (DOL) Office of Federal Contract Compliance Programs (OFCCP) and the Department of Justice (DOJ).

This Technical Assistance Guide is designed to help construction contractors better understand and comply with the above stated Federal and State laws, regulations, policies and with the individual provisions of their contracts.

The information included in this manual focuses on the above stated contract special provisions and provides examples of suggested or alternative actions that may be taken to achieve compliance. This information does not create new legal requirements or change current legal requirements. This information may be used as a guide toward implementing your EEO/AA Program or to perform self-audits to ensure an existing program is continuing to meet requirements. Every effort has been taken to ensure that the information contained herein is accurate and up to date. If you have questions or desire assistance your first point of contact should be your Regional Contract Compliance Officer located at the applicable Regional Headquarters. If further assistance is required, please contact the applicable TDOT Civil Rights Office contact from the following list:

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SECTION 1

EEO/AA REQUIREMENTS

EEO/AA REQUIREMENTS WHAT IS AFFIRMATIVE ACTION?

- Affirmative action is results-oriented actions or processes that help bring minorities and women into the job applicant pool and onto contractor's workforces.
- Affirmative action is outreach efforts to include groups that may have been intentionally or unintentionally previously excluded from contractor's workforces.
- Affirmative action is not quotas, it is goals for minority and female workforce representation as compared to the Civilian Labor Force in a contractor's recruitment area.
- Affirmative action is not preferential treatment; it is equal consideration of all applicants and employees in employment opportunity and employment benefits.
- Affirmative action is not giving jobs to unqualified applicants. It is helping applicants/employees to become qualified through experience and training.
- Affirmative action removes preferences and barriers.

WHAT IS A CONTRACT COMPLIANCE REVIEW?

- A Contract Compliance Review is a systematic, comprehensive review of the employment practices of TDOT contractors and subcontractors in order to determine if they are complying with their EEO/AA contractual requirements. If minor/quick resolution type deficiencies are discovered, a Voluntary Corrective Action Plan (VCAP) may be initiated to achieve compliance. For more serious or uncorrected deficiencies, a Show Cause Notice (SCN) requiring the contractor to submit a Corrective Action Plan (CAP) may be issued. Examples of these plans/notices will be provided (when and if applicable) to any contractor undergoing a Contract Compliance Review.
- A Contract Compliance Review is an attempt to ensure compliance with EEO/AA requirements by identification and correction of deficiencies or problem areas through training, coordination, negotiation and conciliation. It is in the best interests of the Federal and State Government, as well as the Contractor, to ensure EEO/AA requirements are met rather than having to initiate corrective action measures.
- As prescribed by the Department of Labor's (DOL) Office of Federal Contract Compliance Programs (OFCCP), employment goals for TDOT contracts are provided in Section II. The goals are not a quota for a specific group, but rather a target for measuring the effectiveness of the contractor's required affirmative action efforts to prevent and eliminate discrimination by comparing the makeup of the contractor's workforce to the Civilian Labor Force available in the recruitment area. There is **no penalty** for not achieving a goal. There **are consequences** for failure to take, or failure to exert a good faith effort to take, affirmative action or for discrimination in the employment selection process in violation of EEO/AA contractual provisions.

Civil Rights Act of 1866 -prohibits employment discrimination based on race or citizenship.

Civil Rights Act of 1871 – prohibits discrimination in employment and public accommodations.

Unemployment Relief Act of 1923 – prohibits discrimination by employers based on race, creed, or color.

National Apprenticeship Act of 1937 – states no approved apprenticeship program may discriminate in recruitment, selection, employment or training of apprentices based on race, color, religion, sex or national origin.

Fair Labor Standards Act of 1938 – covers most workers by setting a minimum wage, overtime pay and child labor laws.

Equal Pay Act of 1938 – prohibits pay, benefits or work condition differentials based on sex for the same or similar work.

Civil Rights Act of 1964, and amendments - prohibit discrimination based on race, color, religion, sex or national origin.

EO 11141 of 1964 – prohibits age discrimination in hiring, promotion and termination.

EO 11246 of 1965 – prohibits employment discrimination based on race, color, religion, national origin, or sex in hiring, discharge, promotion, wages, benefits, training and all other conditions of employment.

EO 11375 of 1965 – prohibits employment discrimination based on race, color, religion, sex or national origin.

Age Discrimination Act of 1967 - prohibits employment discrimination of anyone over age 40.

Rehabilitation Act of 1971 – prohibits discrimination against mental or physical disabilities and requires affirmative action to employ and advance such persons.

EO 11598 of 1971 – establishes job preferences for veterans.

EEO Act of 1972 – adds sex and religion coverage to the 1964 Civil Rights Act.

Vietnam Era Veteran’s Act of 1974 – requires affirmative action to hire and promote veterans.

Americans with Disabilities Act of 1990 – prohibits discrimination against individuals with disabilities and mandates reasonable accommodation of disabilities.

EEO/AA REQUIREMENTS
AUTHORITY/IMPLEMENTING REGULATIONS/POLICIES/FORMS

1. 23 U.S.C. 140, 324 – Federal-Aid Highway Act of 1968 (Includes State EO Assurances requirement).
2. Executive Order 11246, Non-discrimination, EEO and AA requirements.

Regulations:

1. 23 CFR 200, Title VI.
2. 23 CFR 230, Subpart A, Appendix A (EEO Special Provisions).
3. 23 CFR 230, Subpart A, Appendix B (OJT and Training Special Provisions).
4. 23 CFR 230, Subpart B, (Supportive Services for DBE's).
5. 23 CFR 230, Subpart C, Appendix A (EEO Program Format).
6. 23 CFR 230, Subpart D, (FHWA Contract Compliance Procedures).
7. 23 CFR 633, Required Contract Provisions.
8. 23 CFR 635.117(d) and (e), Construction and Maintenance-Indian Preference.
9. 41 CFR 60-1, Obligations of Contractors and Subcontractors.
10. 41 CFR 60-4, Affirmative Action in Construction Goals and Timetables and Standard Federal Equal Employment Opportunity Construction Contract Specifications.
11. 49 CFR 21, Title VI.
12. 49 CFR 26, Subpart B, (DBE Program Requirements).

Policies:

1. FHWA Orders 4710.8, (Authority and Responsibility under EO 11246 and cancels the use of FHWA Form 86-Compliance Data Report).
2. FHWA Notice 4720.7 (g), (Indian Preference).
3. TDOT EEO Assurances.

Forms:

1. FHWA-1273, Required Contract Provisions Federal-Aid Construction Projects (Including Appalachian contract provisions).
2. FHWA-1391, Federal-Aid Highway Construction Contractors Annual EEO Report.
3. FHWA-1392, Federal-Aid Highway Construction Summary of Employment Data.

**EEO/AA REQUIREMENTS
FORM FHWA – 1273
REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION PROJECTS**

Form FHWA-1273 is one of the definitive sources for inclusion of required contract provisions in TDOT contracts and is required to be physically inserted (cannot be included by reference) in every Federal-Aid Construction Contract of \$10,000 or more. The following link is provided for your convenience in accessing and utilizing the form and all the provisions included therein:

<http://www.fhwa.dot.gov/programadmin/contracts/1273.cfm>

While it is mandated that these EEO provisions are to be in the contracts, within FHWA defined criteria, it is left up to TDOT to generate the policies, procedures and formats for implementing, monitoring, evaluating and determining the sufficiency of contractor's efforts in meeting these requirements or in making *every* possible Good Faith Effort to do so. The following information, keyed to the applicable section of the FHWA-1273, is provided to assist the contractor in that regard. This information does not create new legal requirements or change current legal requirements and may be used as a guide toward implementing your EEO/AA Program or to perform self-audits to ensure an existing program is continuing to meet requirements. Every effort has been taken to ensure that the information contained herein is accurate and up to date. We work under a number of required contract provisions that may cause misinterpretation at times because they come from different sources, the DOL as well as through the DOT. The letter or intent of the provisions may be interpreted erroneously until the time we recognize our error through practical application, monitoring, higher-level review/guidance or through contractor feedback that focuses our attention on potential problem areas. In all cases, once any such problem area is recognized the required contract provisions take precedence over State developed implementation policy and procedures. If this happens, we will immediately correct any erroneous practices in question. TDOT contractors are solicited to keep an active interest in this process and provide constructive questions/comments wherever and whenever applicable.

PARAGRAPH I. GENERAL:

There are a couple of important considerations contained in this general section. The first is that there is a requirement for the insertion of all the stipulations contained in FHWA-1273 into subcontracts and Purchase Orders at any tier. This insertion *cannot be* by reference. The second is that a breach of *any* stipulations contained in the FHWA-Form 1273 shall be sufficient grounds for termination of the project. TDOT practice is to make every effort to negotiate, conciliate or coordinate actions to help bring any deficient practice into compliance instead of initiating any corrective action regarding the contractor's EEO compliance. However, in the case of non-compliance or lack of Good Faith Efforts, the consequences can be severe.

PARAGRAPH II. NONDISCRIMINATION:

EEO POLICY:

- The contractor will have a written EEO/AA Policy that has been signed and dated by the chief official of the company;
- The policy will identify specific actions the contractor will take to ensure EEO/AA;
- The policy will contain the name and means to contact (office location, Phone #'s, etc.) the company's EEO Officer;
- The policy will be reviewed annually by the company's chief official, revised if necessary, signed, dated and submitted to the TDOT Affirmative Action Program; and
- At a minimum, the contractor will accept as his operating policy the following statement:

“It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, age, sex, disability, or veteran status. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and on-the-job training.”

- An important requirement of this provision is the direction to the contractor that they will work with the State Highway Agency and the Federal Government in carrying out EEO obligations and in the review of his/her activities under the contract.

An example EEO/AA Policy Statement is provided on Page 42.

APPOINTMENT OF EEO OFFICER:

- The contractor must designate a responsible company official to be the EEO Officer. The EEO Officer must be delegated the power to effect the EEO/AA Policy and must be capable of effectively administering and promoting an active EEO/AA Program.
- The designation must be in writing and must give the EEO Officer full authority to implement the EEO/AA Policy and to take AA as needed. See example letter to employees provided on Page 43. The written EEO Officer designation must also be submitted to the Affirmative Action Program along with the EEO/AA Policy Statement-Example on Page 45.
- The EEO Officer must have access to records for every employee including name, address, telephone #, race, sex, classification, hours worked, rate of pay, and work site.

- The EEO Officer should forward copies of the letter to all contracting agencies with which your company does business and ensure that the letter is posted on all company bulletin boards at all job sites.
- One of the most important considerations in meeting this requirement is that the EEO Officer must be given the time to effectively administer and promote an active EEO/AA Program. A title without the requisite authority, background, training, and necessary time to carry out designated activities may be considered “token” or “paper” compliance.

EEO OFFICER RESPONSIBILITIES -To include but not limited to:

- . Review of the contractor’s EEO/AA Policy for compliance with Federal and State requirements;
- . Assist in identifying and solving EEO/AA problems;
- . Design and implement audits to track the effectiveness of the EEO/AA Policy;
- . Serve as a liaison between the contractor and TDOT;
- . Serves as a liaison to the community organizations/sources used for recruitment;
- . Keep management informed of all EEO/AA matters and problems within the company;
- . Audit the company’s training programs to determine effectiveness;
- . Provide job advancement counseling to all employees;
- . Ensure equal employee access to all facilities owned/operated/used by the company;
- . Rate supervisors on how well they adhere to and meet their EEO/AA goals;
- . Inventory and evaluate all minority and women personnel for training/promotion opportunities.
- . Maintain all bulletin boards with Federal and State EEO posters and notices;
- . Encourage minority and women employees to participate in all company social activities and training opportunities; and
- . Instruct all new employees (to include supervisory, human resource and personnel involved in direct recruitment) in regard to the EEO/AA Policy.

3. DISSEMINATION OF EEO/AA POLICY:

The contractor must make the EEO/AA Policy known to all employees, applicants, unions, training programs and recruitment sources.

The contractor must ensure that all staff members (supervisory and human resource) who hire, fire, supervise, promote and demote employees or who recommends such actions, are fully aware of the company's EEO/AA Policy. New employees in these categories must be indoctrinated within 30 days of reporting for duty. All personnel in these categories must have the policy reviewed with them semi-annually. Meetings must be documented.

The EEO/AA Policy should be discussed at meetings, reviewed with all officials annually, posted in home office and at every job site and included in all company reports. Meetings must be held before the start of a project and every six months thereafter. The EEO officer must conduct the meetings.

The phrase "An Equal Opportunity Employer" (Do not use initials) must be included in all written ads for employment. A good faith effort would include inserting a statement that minority and/or female employees are wanted or are being actively recruited.

All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer or appropriate company official in the contractor's procedures for locating and hiring minority and female employees.

The contractor will keep written documentation on all EEO/AA related actions in order to verify their existence and implementation.

4. RECRUITMENT:

- The contractor must keep a log of all walk-in applicants with their name, address, telephone #, hire/referral action for each, sex, race or ethnic background for each.
- For union contractors, non-union minority or female applicants should be referred to the union and follow-up contacts made and documented.
- Current employees should be encouraged to recruit and refer minorities and females for employment. Such activities should be documented.
- Where reasonable, after-school and summer employment should be provided to minorities and females at the office and job site to encourage full-time employment later.

- A union contractor must provide written notification to TDOT when the union is unable to provide minority or female referrals or impedes the EEO/AA Policy requirements.
- Current minority and female employees engaged in clerical or administrative duties should be encouraged to apply for construction related jobs (if they show interest).
- The phrase “An Equal Opportunity Employer” (**do not use initials**) must be included in all written ads for employment. A good faith effort would include inserting a statement that minorities and females are wanted or are being actively recruited. Example ads are provided on Page 49.

5. PERSONNEL ACTIONS:

- The contractor must ensure that seniority practices, work assignments and job classifications do not discriminate against minorities and females.
- Documentation must be kept, and made available to State Contract Compliance officers during reviews, regarding such employment related actions as training, referral, lay-off, termination, transfer and hiring.

6. TRAINING AND PROMOTION:

- The contractor must develop and document on-the-job training opportunities or participate in training programs that upgrade minorities and females.
- Participation can include a contribution of money, personnel or equipment for training purposes.
- Current employees should be notified of training opportunities and the contractor should be retaining/promoting minorities and females who have undergone training.

7. UNIONS:

- The contractor shall maintain a file of the name, address, and telephone number of each minority and female walk-in applicant.
- The contractor should exert best effort to assure that “off the bank” and/or “name request” provisions are in their collective bargaining agreements. “Off-the-bank” allows them to hire walk-ins and refer them to the union within a specific number of days for membership. “Name request” allows them to refer the walk-in to the union and “name request” them back from the union. Documentation of all actions taken by the contractor and union, in regard to these referrals, shall be maintained by the contractor.

- The contractor shall provide immediate written notification to the TDOT Civil Rights Office, and to the director of OFCCP, if a union fails to refer back a minority or female applicant referred to the union by the contractor.
- The contractor shall document all contacts with a union to request that minority and female applicants be referred for employment vacancies.

8. SELECTION OF SUBCONTRACTORS, PROCUREMENT OF MATERIALS AND LEASING OF EQUIPMENT:

9. RECORDS AND REPORTS:

The contractor shall keep such records as necessary to document compliance with EEO/AA requirements. Records shall be available at reasonable times and places for inspection by authorized representatives of TDOT or FHWA. All records must be maintained for three (3) years. If a complaint is filed or a compliance review has been initiated, all records must be maintained until final disposition of the complaint or review. The following records must be maintained by contractors and subcontractors with Federal-aid contracts:

- The number of minority and non-minority group members and females employed in each work classification on the project;
- The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and females;
- The progress and efforts being made in locating, hiring, training, qualifying and upgrading minority and female applicants/employees;
- The progress and efforts being made in securing the services of DBE contractors or subcontractors with meaningful minority and female representation among their employees;
- Applicant logs for each job site;
- Hiring, assignment, promotion, demotion, transfer, layoff, and termination records;
- Rates of pay;
- Selection for training, procedures for such selection and personnel considered/selected;
- Requests for reasonable accommodation;
- Results of physical examinations;
- Copies of job advertisements and postings;

- Applications and resumes;
- Tests and test results;
- Interview notes; and
- Any and all Good Faith Efforts to meet EEO/AA requirements.

6. EEO RELATED PROBLEMS:

If any of the following conditions are found within the company, the EEO Officer must take Affirmative Action steps to correct them:

Underutilization of minorities or females in any work classifications.

Lower promotion rates for minority or female employees.

Hiring/employment processes that tend to eliminate minorities or females. For example, “last hired-first fired” should not be used if it would cause an under-representation of minorities and females in the company’s workforce.

Minorities or females not participating in company training or social activities.

Nonsupport of EEO/AA Policy by senior management or supervisors.

Lack of formal techniques or benchmarks for evaluating effectiveness of EEO/AA Program.

Lack of cooperation by subcontractors or labor unions in meeting EEO/AA requirements.

Segregated facilities other than single use toilets and changing facilities for privacy between sexes and for parking for the disabled when the demand for accessibility override.

7. EEO RELATED ACTIVITIES FOR ENHANCING AFFIRMATIVE ACTION:

- A. All personnel involved in recruiting, hiring, disciplining and firing should be selected; trained and monitored by the EEO Officer to be sure their actions/decisions are free of any bias or prejudice.
- B. Develop, utilize, and periodically update a list of recruitment sources for minority and female community organizations/referral sources and maintain working relationships with those sources.

- C. Include minorities and females in the recruitment and hiring process to the greatest extent possible.
- D. Involve minorities and females in activities that promote the company such as career days and community involvement.
- E. The contractor must conduct an annual review of all minority and female employees for promotion, raises and training opportunities.
- F. The review must be documented, along with any efforts undertaken by the contractor to prepare minority and female employees for promotion.

12. WORKING ENVIRONMENT:

- A. The contractor must ensure and maintain a working environment free of harassment, coercion, and intimidation at all sites and in all facilities where employees work.
- B. The contractor is legally liable for any violation that may occur, even without the contractor's knowledge or consent.
- C. All supervisors should be aware of and carry out this mandate, through training and monitoring by the EEO Officer.
- D. When possible, two or more minorities and/or females should be assigned to each work site to reduce isolation and curb hostile actions/behavior.
- E. All facilities and activities should be non-segregated, except single-user toilets/changing facilities to ensure privacy. Disabled parking for accessibility purposes is allowed. Contractor must post certification of non-segregated facilities on bulletin boards.

13. DBE LIAISON OFFICER:

- A. The contractor should designate a responsible corporate official as a liaison to coordinate all DBE related activities.
- B. The appointment should be in writing and the Liaison Officer should be given the authority to carry out all required mandates. The Liaison Officer must be knowledgeable of the requirements and must document all actions taken.

THE SIXTEEN (16) STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS

The *Standard Federal Equal Employment Opportunity Construction Contract Specifications*, which are published at 41 CFR 60-4.3, require federally-involved construction contractors with a construction contract in excess of \$10,000 to take AA steps that are at least as extensive as the 16 AA steps listed in the specifications. The 16 steps are summarized below. Actions that covered construction contractors are required to take to comply with the steps are included. Examples of suggested or alternative actions that would enable a contractor to comply with the specifications are also listed. The examples listed should not be viewed as being the only possible ways to comply with these specifications. Also, depending on the situation, a contractor may need to take more than one action to comply with the particular specification, as well as take actions that are not specifically listed below.

EEO AND AFFIRMATIVE ACTION SPECIFICATION #1
Contractors and subcontractors must maintain a work environment free of harassment, intimidation, and coercion at all sites and in all facilities at which the Contractor's employees are assigned. (41 CFR 60-4.3(a) 7.a.)

Examples of Actions That Demonstrate Compliance:

- Contractors may produce policy statements prohibiting harassment and distribute copies to all employees.
- EEO/AA Policy Statements must be posted at all construction job sites and may be posted at other facilities of the contractor as well.
- Contractors may give supervisory personnel, and other employees, memoranda and other written instructions addressing the need to maintain a work environment free of harassment, intimidation and coercion. Copies of such written materials should be retained.
- Contractors may hold meetings to inform supervisory personnel of their duty to carry out the contractor's obligation to maintain a workplace free of harassment, intimidation, or coercion. Minutes or other records of such meetings should be retained.

- Contractors that assign more than one minority/female to each construction project should retain records of such assignments.
- Contractors may develop formal procedures to handle complaints of harassment and maintain records of such complaints and how the company handled them.
- Contractors' EEO Officers may prepare and retain reports, diaries, analyses, etc., of specific efforts made to monitor the work environment for the presence of any forms of harassment, intimidation, or coercion, such as: verbal, visual or written abuse; physical aggressiveness; assigning females and/or minorities to more difficult or dangerous work than men/non-minorities; or sabotaging of individual's work.
- Contractors may provide harassment awareness training to supervisors or employees. Contractors should retain records of such training which indicate the dates of the training, the names of those conducting the training, the names of those attending the training, and a copy or description of the training materials.

EEO AND AFFIRMATIVE ACTION SPECIFICATION #2
Contractors and subcontractors must establish and maintain current lists of minority and female recruitment sources; provide written notification to minority and female recruitment sources and to community organizations when the contractor or its unions have employment opportunities available; and maintain a record of the organizations' responses. (41 CFR 60-4.3(a)7.b.)

Examples of Actions That Demonstrate Compliance:

- Recruitment sources should include the state employment offices serving the recruitment areas for the company's construction projects, and may also include organizations such as the Job Corps, Urban League, YMCA, YWCA, National Association of Women in Construction, Neighborhood Youth Corps, Equal Opportunity Programs, Inc., National Organization of Women, LULAC and others. In addition, local community organizations are extremely effective as employer/employee linkage resources.
- Contractors may maintain files of letters to minority and female recruitment sources announcing the employment opportunities and application procedures. In order to maintain a record of recruitment organizations' responses, contractors may retain any written responses received from the sources or log or otherwise record the responses.
- An applicant flow log may be used by contractors to identify employment solicitations and referrals, and to track the results of the applications. Applicant flow documentation should include copies of correspondence from recruitment sources, copies of job announcements from state employment offices, and copies of notes, diaries, phone logs and/or other written records of contracts with recruitment organizations

Examples of Actions That Demonstrate Compliance:

- Contractors should establish files that show the names, addresses, telephone numbers and trades of each minority and female applicant and referral.
- In addition to an applicant flow log, contractors may wish to note on the actual employment application forms what action was taken with respect to each applicant and the reason for non-hire.

EEO AND AFFIRMATIVE ACTION SPECIFICATION #3

Contractors and subcontractors must maintain current files containing the names, addresses and telephone numbers of each minority or female off-the-street applicant and minority or female referral from a union, recruitment source or community organization and of what action was taken with respect to each individual. Occasionally, contractors/subcontractors will send individuals to the union hiring hall for referral back to the contractor. If the union did not refer the individual to the contractor **or** if the individual was referred but was not hired, the contractor/subcontractor must keep a record of all actions taken, along with the reasons why the referral or hiring did not occur. (41 CFR 60-4.3(a)7.c.)

- Where an applicant has been referred to the union for referral back to the contractor, contractors should document this action and its results or any follow-up contacts made with the applicant or the union.
- Contractors should attempt to include provisions dealing with off-the-street referral processes, and independent recruiting efforts if the union fails to meet EEO/AA requirements, in all collective bargaining agreements.

EEO AND AFFIRMATIVE ACTION SPECIFICATION #4

Contractors and subcontractors must immediately notify the Deputy Assistant Secretary in writing when the union or unions with which the contractor/subcontractor has a collective bargaining agreement has not referred a woman or minority individual sent by the contractor/subcontractor. Similarly, contractors/subcontractors must notify OFCCP when the contractor/subcontractor has other information that the union referral process has impeded the contractor's efforts to meet its EEO and affirmative action obligations. (41 CFR 60-4.3(a)7.d.)

Examples of Actions That Demonstrate Compliance:

- Contractors should keep copies of all letters to and from the unions, minutes of meetings, etc., related to any claims that the union has impeded the company's efforts to comply with its EEO/AA obligations.
- Contractors should also keep copies of any letters sent to the OFCCP that contain claims of non-referral or claims that a union has impeded the contractor's efforts to comply with EEO/AA obligations.

Note: Neither the provisions of a collective bargaining agreement, nor the failure by a union with whom the contractor has a collective bargaining agreement, to refer either minorities or females shall excuse the contractor's obligations under the contract specifications, Executive Order 11246, as amended, or the applicable regulations (see 41 CFR 60-4.3(a)5.).

EEO AND AFFIRMATIVE ACTION SPECIFICATION #5

Contractors and subcontractors must develop on-the-job training opportunities or participate in training programs for the job area(s) which expressly include minorities and women. Contractors' actions must include upgrading programs, apprenticeships and trainee programs relevant to the contractor's employment needs, especially those programs approved by the Department of Labor. Contractors and subcontractors must provide notice of these training opportunities and job programs to recruitment sources, state employment offices and other referral sources that the contractor/subcontractor has compiled under *Specification 2* above. (41 CFR 60-4.3(a)7.e.)

Examples of Actions That Demonstrate Compliance:

- Contractors may maintain records of employees’ participation in training programs, including those that are approved or funded by the Department of Labor’s Bureau of Apprenticeship and Training.
- Contractors may document any contributions of cash, equipment or personnel provided in support of training or apprenticeship programs.
- Contractors may inform minority and female community organizations, recruitment sources and schools of these programs in writing. Contractors should retain copies of any such notifications.

EEO AND AFFIRMATIVE ACTION SPECIFICATION #6
<p>Contractors and subcontractors must disseminate EEO policies by:</p> <ul style="list-style-type: none">➤ Providing notice of the policies to unions and training programs and requesting their cooperation and assistance in meeting EEO obligations;➤ Including EEO policy statements in all policy manuals and collective bargaining agreements;➤ Publicizing these policies in company newsletters, the annual report, etc.;➤ Specifically reviewing the policy with all management personnel and with all minority and female employees at least once a year; and,➤ Posting the EEO Policy on bulletin boards accessible to all employees at each location where construction work is performed. (41 CFR 60-4.3(a) 7.f.)

Examples of Actions That Demonstrate Compliance:

- In addition to including EEO/AA policies in all policy manuals, contractors may include EEO/AA policies in employee handbooks provided to each employee when they are hired (if such a handbook exists).
- Copies of contractors’ EEO/AA policies should be posted on bulletin boards that are accessible to all employees at each location where construction work is performed.
- Contractors should document discussions that it has with female and minority employees about EEO/AA policies. For example, employees may be asked to sign a receipt for an

employee handbook that contains EEO/AA policies. Employees can be asked to sign a form at a new employee orientation indicating that the company's EEO/AA policies have been reviewed with them.

➤Contractors may also keep copies of letters, memoranda and notices to unions and training programs notifying them of the contractor's EEO/AA policies and requirements and requesting their assistance in meeting those obligations.

➤Contractors can keep a file containing company newsletters and annual reports which contain descriptions of EEO/AA policies.

EEO AND AFFIRMATIVE ACTION SPECIFICATION #7

At least once a year, contractors and subcontractors must review EEO policies and affirmative action obligations (under these specifications) with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions. These EEO policies and affirmative action obligations must be specifically reviewed with on-site supervisory personnel such as superintendents, general foremen, etc., prior to starting construction work at any job site. Contractor/subcontractor personnel must maintain records that identify the time and place of these meetings, persons attending, subject matter discussed and disposition of the subject matter. (41 CFR 60-4.3(a)7.g.)

Examples of Actions That Demonstrate Compliance:

➤Contractors should have written records (memoranda, diaries, minutes of meetings, etc.) that identify the time and place of these meetings, persons attending, subject matter discussed and disposition of the subject matter.

EEO AND AFFIRMATIVE ACTION SPECIFICATION #8

Contractors and subcontractors must disseminate EEO policies externally by including them in any advertising in the news media (including minority and female news media). Contractors and subcontractors must also provide written notification to and discuss EEO policies with, other contractors and subcontractors with whom the contractor/subcontractor does or anticipates doing business. (41 CFR 60-4.3(a)7.h.)

Examples of Actions That Demonstrate Compliance:

- Contractors should have copies of any employment advertisements or job announcements which specifically include the EEO “phrase.” The phrase may state that the contractor is “An Equal Opportunity Employer,” or it may alternately state that all qualified applicants will receive consideration for employment without regard to race, color, religious creed, national origin, age, sex, disability or veteran’s status. The phrase should appear in advertisements placed in media targeted towards minority and female readers.
- Contractors should maintain copies of correspondence with subcontractors that notify them of EEO/AA contractual obligations and the contractor’s commitment to compliance.
- Contractors should document meetings with construction industry associations and organizations where the Federal EEO/AA contract obligations and methods for facilitating compliance have been discussed or acted upon.

EEO AND AFFIRMATIVE ACTION SPECIFICATION #9

Contractors and subcontractors must direct recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the contractor’s recruitment area and employment needs. Contractors/subcontractors must send notice to its recruitment sources for women and minorities announcing acceptance of applications for apprenticeship or other training. This notice must be sent no later than one month before publication of apprenticeship and training announcements. Notices must describe the openings, screening procedures and tests to be used in the selection process. (41 CFR 60-4.3(a)7.i.)

Examples of Actions That Demonstrate Compliance:

- Contractors should have written records of contracts (such as written communications, telephone calls or personal meetings) with minority and female community organizations, recruitment sources, schools and training organizations. Records should specify the date of contact, individual contacted results of the contact and any follow-up efforts.
- Contractors should also document their contacts with local offices of the state employment service, Private Industry Council, vocational/technical schools or high schools with construction related training programs, Displaced Homemaker Programs, Urban League training and referral programs or other community based organizations.
- If a union is responsible for acceptance into the training programs, contractors should ensure that information is obtained from the union on individuals who were referred from the recruitment sources/organizations and on those who were accepted in the program.
- Contractors should maintain records of written contacts to recruitment sources announcing training and apprenticeship opportunities. Recruitment sources must be notified one month before the company begins accepting applications.

EEO AND AFFIRMATIVE ACTION SPECIFICATION #10
Contractors and subcontractors must encourage current minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both at the work site and in other areas of the contractor's work force. (41 CFR 60-4.3(a)7.j.)

Examples of Actions that Demonstrate Compliance:

- Contractors may have copies of diaries, telephone logs or memos indicating contacts (both written and oral) with minority and female employees requesting their assistance in recruiting other minorities and females, and records of the results. Contractors should specifically discuss recommendations for referral with minority and female trade employees.
- Supervisors and crew leaders may keep a log of worker referrals from minority or female employees or recruitment sources.
- Contractors that provide after-school, summer and vacation employment to minority and female youth should maintain records of such employment. Contractors may also retain on file any letters and other documentation of contact with recruitment sources or local state employment agencies regarding these youth employment programs.

EEO AND AFFIRMATIVE ACTION SPECIFICATION #11

Contractors and subcontractors must validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3, the “Uniform Guidelines on Employee Selection Procedures (1978).” (41 CFR 604.3(a)7.k.) Actions for demonstrating compliance vary by the number of people employed by the contractor. (41 CFR 60-3.15A(1)).

Examples of Actions That Demonstrate Compliance:

- Contractors with 100 or fewer employees should collect data to help determine if the test or selection requirement has a possible adverse impact on any race, sex, or ethnic group (see 41 CFR 60-3.15A (1)). These contractors should maintain and have available records showing, for each year:
 - 1) The number of persons hired, promoted and terminated in each trade (e.g., carpenter, brick masons, concrete finishers, ironworkers, mechanics, equipment operators), by sex (gender), and where appropriate, by race and national origin;
 - 2) The number of applicants for hire and promotion by trade and sex, and where appropriate, by race and national origin; and
 - 3) The selection procedures used (such as standardized testing or unstructured interviews and qualifications review) for each trade.

Contractors with more than 100 employees should maintain the records listed above and maintain records for each job that show whether the total selection process for each job has an adverse impact on either gender or on any of the following race and ethnic groups: Blacks, American Indians, Asians, Hispanics, and Whites other than Hispanics.

Contractors should perform adverse impact analyses at least once a year for each group that comprises at least two percent of the labor force in the relevant area or two percent of the applicable workforce. Where a total selection process does adversely impact any of the above referenced groups, contractors should maintain and have available records showing which components of the selection process have an adverse impact. Records regarding individual components of the selection process should be collected for at least two years after the adverse impact has been eliminated. Contractors must validate selection procedures that have an adverse impact, in accordance with the Uniform Guidelines.

EEO AND AFFIRMATIVE ACTION SPECIFICATION #12

At least once a year, contractors and subcontractors must inventory and evaluate all minority and female personnel for promotional opportunities. Contractors must also encourage these employees to seek or prepare for, through appropriate training, etc., promotional opportunities. (41 CFR 60-4.3(a)7.1)

Examples of Actions That Demonstrate Compliance:

- Contractors may keep written records (memoranda, letters, personnel files, etc.) showing promotional opportunities for females and minorities are reviewed annually.
- Contractors may keep written records documenting that the participation of females and minorities in promotional opportunities is encouraged.

EEO AND AFFIRMATIVE ACTION SPECIFICATION #13

Contractors and subcontractors must ensure that seniority practices, job classifications, work assignments and other personnel practices do not have a discriminatory effect, by continually monitoring all personnel and employment related activities to ensure that EEO policies and contractors' obligations under the contract specifications are being carried out. (41 CFR 60-4.3(a) 7.m.)

Examples of Actions That Demonstrate Compliance:

- Contractors may use data collected under *Specification 11* to determine if seniority practices, job classifications, work assignments or other personnel practices have an adverse impact on females and minorities.
- Contractors may wish to audit or examine existing personnel practices periodically or to convene an EEO task force when developing new personnel practices to ensure that EEO obligations are being adequately addressed and incorporated.
- Contractors must ensure current policies are reviewed on a regular basis to identify factors that are not equally applied.

EEO AND AFFIRMATIVE ACTION SPECIFICATION #14

Contractors and subcontractors must ensure that all facilities and company activities are non-segregated except that separate or single-user toilets and necessary changing facilities designed to assure privacy between the sexes shall be provided. (41 CFR 60-4.3(a)7.n.)

The term “facilities” refers to waiting rooms, work areas, eating areas, time clocks, rest rooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or transportation, and housing facilities provided for employees.

Examples of Actions That Demonstrate Compliance:

- Contractors should offer adequate toilet and changing facilities to all employees to guarantee privacy between the sexes. Disabled Parking for accessibility needs is allowed.
- Contractors may compile documents (e.g., flyers, posters, announcements) indicating that information concerning parties, picnics and other company sponsored events has been disseminated equally to all employees.

Prime contractors will require and keep on file, certificates of non-segregation from subcontractors.

EEO AND AFFIRMATIVE ACTION SPECIFICATION #15

Contractors and subcontractors must document and maintain records of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations. (41 CFR 60-4.3(a)7.o.)

Examples of Actions That Demonstrate Compliance:

- Contractors should keep letters or other direct solicitations for subcontracts from minority or female contractors, with a record of the specific responses and any follow-up activities done to obtain price quotations.
- Contractors may have a list of subcontracts they have awarded to minority or female contractors or suppliers, showing the dollar amounts involved.

➤Contractors and subcontractors must ensure that all facilities and company activities are non-segregated except that separate or single-user toilets and necessary changing facilities designed to assure privacy between the sexes shall be provided. (41 CFR 60-4.3(a)7.n.) Contractors should retain copies of solicitations sent to minority and women’s contractor associations or other business associations and state or local governmental agencies.

EEO AND AFFIRMATIVE ACTION SPECIFICATION #16
At least once a year, contractors and subcontractors must conduct a review of all supervisors’ adherence to and performance under the company’s EEO policies and affirmative action obligations. (41 CFR 60-4.3(a)7.p.

Examples of Actions That Demonstrate Compliance:

Contractors may keep copies of performance evaluations, memoranda, letters, reports, and minutes of meetings or interviews with supervisors and management personnel about their employment practices as they relate to EEO/AA obligations.

Contractors should also compile any written evidence that supervisors and managers have been notified when their employment practices adversely or positively affected the company’s EEO/AA posture.

ADDITIONAL REQUIREMENTS -CONTRACT CLAUSES
Federally assisted construction contracts or subcontracts must include or reference the following clauses in certain (depending on dollar amount) subcontracts and purchase orders resulting from the contract: <ul style="list-style-type: none">➤Executive Order 11246 equal opportunity clause; and➤Executive Order 11246 contract specifications clause.

Examples of Requirements

➤ Federally assisted construction contractors must include or reference provisions of the Executive Order 11246 equal opportunity clause shown in 41 CFR 60-1.4(b) in each subcontract or purchase order of more than \$10,000 per year resulting from the contract.

➤ Whenever a contractor or subcontractor subcontracts a portion of the work involving any construction trade, the Specifications, including the sixteen EEO/AA program requirements described above and the “Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity” (41 CFR 60-4.2(d)) containing the applicable goals for minority and female participation, must be included in subcontracts larger than \$10,000.

ADDITIONAL REQUIREMENTS -NOTIFICATION OF AWARD

Contractors and subcontractors must notify OFCCP in writing within 10 working days of the award of any construction subcontract in excess of \$10,000 that is made under covered Federal or federally-assisted construction contracts. Contractors/subcontractors may fulfill this requirement by notifying the nearest OFCCP district office.

Examples of Requirements:

➤ Per 60-4.2d (3), written notification must include:

- Name, address and telephone number of the subcontractor;
- The subcontractor’s employer identification number;
- Estimated dollar amount of subcontract;
- Estimated starting and completion dates of the subcontract; and
- Geographic area in which the subcontract is to be performed.
- An example of a notification letter is provided on Page 44. It is recommended that copies of this letter be kept in the project file as well as the EEO file.

ADDITIONAL REQUIREMENTS -RECORDKEEPING

Contractors and subcontractors must keep records about their entire on-site construction trade work force within each covered area in which they perform any construction work (both Federal and non-Federal). 41 CFR 60-4.3(a)14, 41 CFR 60-1.12(a)

Explanation of Requirements:

- A covered area (also referred to as a geographical area) is the area identified in the solicitation that generated the Federal or federally assisted construction contract or subcontract.
- Any personnel or employment record made or kept by the contractor must be preserved. Federally assisted construction contractors must retain such records for a minimum of three years from the date they were created or the date the personnel action occurred, whichever is later. If a complaint is filed, or a compliance review has been initiated, all records must be maintained until final disposition of the complaint or review.
- Relevant records include, but are not necessarily limited to, records pertaining to hiring, assignment, promotion, demotion, transfer, layoffs, terminations, rates of pay or other terms of compensation, selection for training and apprenticeship, results of physical examinations, job postings, job advertisements, applications, resumes, tests, test results, and job interview notes.
- Contractors must keep records that include at a minimum for each employee the name, address, telephone number, employee identification number or last four digits of SSN, race, gender, rate of pay, construction trade, job title (for example, equipment operator, apprentice trainee, laborer), dates of change in job status, hours worked per week in each indicated trade, locations at which the work was performed, union affiliation if any, and employee identification number if any. The records must be maintained in an easily understandable and retrievable form. However, to the extent that existing records satisfy this requirement, contractors are not required to maintain separate records.

SECTION II
MINORITY AND FEMALE EMPLOYMENT GOALS
AND PAYROLL INFORMATION

TENNESSEE MINORITY/FEMALE EMPLOYMENT GOALS

Unless otherwise notified and until further notice, the following goals for minority utilization in each construction craft and trade shall be included in all federally assisted construction contracts and subcontracts in excess of \$10,000 to be performed in the respective geographical area. The goals are incorporated into each applicable contract by TDOT Special Provision 1232. The goals are applicable to each nonexempt contractor’s total onsite construction workforce, regardless of whether or not part of that workforce is performing work on a Federal, Federally assisted or Non-federal related project contract or subcontract. (NOTE: Although it remains a requirement for States to include specific EEO goals and timetables in all construction project contracts with a value of \$10,000 or more; the U.S. Department of Labor’s Office of Federal Contract Compliance Programs (OFCCP) has **SOLE** authority to determine compliance with E.O. 11246 and its implementing regulations (41 CFR 60-4).

<u>Economic Area</u>	<u>Minority Goals (%)</u>
Huntsville AL-Lincoln County TN is in Huntsville County Non SMSA County area:.....	11.2
Chattanooga:	
SMSA Counties:.....	12.5
Hamilton, Marion, Sequatchie	
Non-SMSA Counties.....	8.6
Bledsoe, Bradley, Grundy, McMinn, Meigs, Monroe, Polk, Rhea.	
Johnson City-Kingsport-Bristol:	
SMSA Counties:.....	2.6
Carter, Hawkins, Sullivan, Unicoi, Washington.	
Non-SMSA Counties:.....	3.2
Greene, Hancock, Johnson.	
Knoxville: SMSA Counties:.....	6.6
Anderson, Blount, Knox, Union. Non-SMSA	
Counties:.....	4.5
Campbell, Claiborne, Cocke, Cumberland, Fentress, Grainger, Hamblen, Jefferson, Loudon, Morgan, Roane, Scott, Sevier.	
Nashville:	
SMSA Counties:	
Clarksville:.....	18.2
Montgomery	
Nashville:.....	15.8
Ceatham, Davidson, Dickson, Robertson, Rutherford, Sumner, Williamson, Wilson.	
Non SMSA	
Counties:.....	12.0
Bedford, Cannon, Clay, Coffee, DeKalb, Franklin, Giles, Hickman, Houston, Humphreys, Jackson, Lawrence, Lewis, Macon, Marshall, Maury, Moore, Overton, Perry, Pickett, Putnam, Smith, Stewart, Trousdale, Van Buren, Warren, Wayne, White.	
Memphis:	

SMSA	
Counties:.....	32.3
Shelby, Tipton.	
Non-SMSA Counties:.....	26.5
Benton, Carroll, Chester, Crockett, Decatur, Dyer, Fayette, Gibson, Hardeman,	
Hardin, Haywood, Henderson, Henry, Lake, Lauderdale, McNairy, Madison, Obion,	
Weakley.	

THE STATEWIDE GOAL FOR FEMALE EMPLOYMENT IS 6.9 % PER CRAFT.

EEO AND PAYROLL INFORMATION

In order to properly fulfill the contract, the contractor must conform to labor and EEO provisions included in the contract. The following information is provided as an aid to the contractor in identifying and fulfilling the requirements for these items.

1. WAGE RATES:

A. All non-exempt contracts let to bid and entered into by TDOT for highway construction work contain provisions and regulations governing the employment and payment of persons engaged by contractors, subcontractors and others to perform the contract work. In your contract, these employment and payment requirements are delineated in Section IV of TDOT Special Provision-1230 (Form FHWA-1273).

B. All projects are subjected to the requirements stipulated in the Davis-Bacon Act.

C. On all non-exempt projects, the principal requirement contained in the provisions noted above is that all employees in the various work classifications engaged in the work under the contract must be paid at not less than the minimum wage rate established by the U.S. Department of Labor (DOL) and listed on the Wage Rate Decision in the contract. The wage determination [including any additional classifications and wage rates conformed under paragraph 2 of Section IV-Special Provision 1230 and DOL poster (WH-1321) or form FHWA-1495] shall be posted at all times by the contractor and its subcontractors at the site of the work and in a prominent and accessible place where it can be easily seen by the workers.

D. Laborers and mechanics engaged on projects let by the Tennessee Department of Transportation (Federal-Aid and State funded) must be paid at not less than one and one-half times their basic rate for all hours worked in excess of forty hours per week. Work hours performed on different sites is accumulative, not accounted for or paid for individually by each site.

2. PAYROLLS:

Per Section V of Tennessee Special Provisions-1230 (Form FHWA-1273), payrolls and basic records relating thereto shall be maintained by the contractor and each subcontractor during the course of the work and preserved for a period of three years from the date of completion of the contract.

A. Each contractor/subcontractor shall furnish, each week in which any contract work is performed, to the TDOT Operations Supervisor a properly annotated and certified statement of the wages paid each of its employees engaged on the project during the preceding weekly payroll period. See Section V for specific requirements.

B. The payroll should be submitted so that it will be received by TDOT not later than seven (7) calendar days after the regular payment date of the payroll period.

- C. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. If the prime contractor or subcontractor(s) fails to furnish the certified payrolls for the week covered by the preceding payroll period on time, the prime contractor will be notified that they have one (1) week from the date of this notification to bring payroll up to date or payment on the project will not be made until the payroll is up to date.

3. PAYROLL INFORMATION:

- A. The payroll records shall contain the name, employee identification number or use the last four digits of the employee SSN ; his or her correct classification; hourly rates of wages paid (to include fringe benefits if applicable); daily total and weekly total # of hours worked; deductions made; and actual wages paid.
- B. The payrolls should be numbered consecutively and the last payroll made on the contract should be marked “**Final.**”
- C. The contractor may use code numbers in lieu of actual classifications as long as the TDOT Operations Supervisor has a descriptive copy of the codes. The classifications shown on the payroll should coincide with the classifications shown on the Wage Rate Decision. Contractor must explain any discrepancy.
- D. Itemized deductions must be listed. Under the Copeland Anti-Kickback Act, it is a criminal offense, subject to severe penalties, for any contractor or subcontractor to induce any person to give up any of the compensation to which he/she is entitled under the contract. However, certain deductions such as income taxes, social security, health insurance premium etc. are allowable by State and Federal law.
- E. The contractor/subcontractor(s) are required to submit a Weekly Statement of Compliance with each copy of the weekly payrolls they submit. This affidavit relates to Anti-Kickback regulations and must be included with each payroll submittal.

4. EMPLOYMENT OF APPRENTICES:

- A. Apprentices may be employed on contract work, and permitted to work at less than the pre-determined rate for the work being performed, when they are employed pursuant to and individually registered in a bona fide Apprenticeship program. The wage rate is dependent on the apprenticeship agreement and is a percentage of the journeyman’s rate, dependent on the apprentice’s length of service.
- B. Before using apprentices on the project, the contractor should present written evidence of their registration and their current wage rate.

SECTION III

EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION REQUIREMENTS/DOCUMENTATION

The contractor shall take specific AA steps to ensure EEO. The evaluation of the contractor's compliance with the EEO/AA requirements shall be based upon their best effort (commonly referred to as Good Faith Efforts or GFE) to achieve maximum results from their actions. Good documentation of the steps taken to ensure compliance is a solid foundation for determination of best efforts. The contractor shall implement EEO/AA steps identified in this section and maintain records as indicated.

3. EEO EMPLOYEE RECORDS:

- A. Records for each employee must at least include the name, address, telephone number, construction trade, union affiliation (if applicable), employee identification # if assigned, or last four digits of the employee SSN #; race, sex, status (e.g. mechanic, apprentice, trainee, helper or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed.
- B. Records must be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.
- C. Both Special Provisions 1230 and 1273 require the contractor and subcontractors to submit to TDOT an annual report, each July during which work is performed, indicating the number of minority, women and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on FHWA Form -1391 and shall be submitted so that it is received by the Department not later than the 20th of the month (August) following the reporting period.

4. EEO POLICY:

- A. The contractor shall disseminate the EEO/AA Policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the contractor meet the EEO/AA obligations. An example union notification letter is provided on Page 46.
- B. The contractor shall include the policy in all policy manuals, Employee Handbooks, collective bargaining agreements and post it in areas readily accessible to employees and applicants. An example policy is provided on Page 42.
- C. The contractor shall publicize the policy in the company newspaper (if applicable) or any company reports.
- D. The contractor shall discuss the policy with all employees at least once a year. See Page 47 for an example of documentation of the review.
- E. The contractor shall conduct an annual, detailed review of the Company EEO/AA Policy requirements with all employees, including foremen, having any responsibility for hiring, assignment, layoff, termination or other employment decisions. An example letter documenting the review is provided on Page 50.
- F. This detailed review documentation should include the time and place of the meeting, the subject matter discussed and any related actions arising from the review.

G. All persons attending the review should be required to sign the minutes of the meeting and a signed copy of the minutes should be retained in the company EEO files and made available to contracting agencies upon request.

H. These detailed reviews should also be conducted at the following times:

- To all new supervisory or Human Resource personnel within thirty (30) days of employment;
- At the beginning of each new construction project. (It is recommended that all personnel working on the project be included in the review);
- At least every six months for all supervisory and Human Resource personnel; and
- As required, if problems/changes are identified that require review/reinforcement of policy.

I. The contractor shall send a copy of the EEO/AA Policy to all subcontractors, vendors and suppliers with which business is anticipated. An example of a transmittal letter is provided at Page 48.

J. The contractor shall include the EEO/AA Policy in any advertising in the news media and specifically have the EEO/AA Policy included in advertising in minority or female oriented news media. Specifically the phrase “An Equal Opportunity Employer” will be included in all advertising. Example ads are provided on Page 49.

K. The contractor shall retain copies of all advertising which includes the EEO/AA Policy in the EEO files for three (3) years following the ending date of the contract. If a complaint is filed or a compliance review has been initiated, all records must be maintained until final disposition of the complaint or review.

L. The contractor shall conduct at least an annual review of all supervisors’ adherence to, and performance under, the contractor’s EEO/AA policies and obligations. This review should be maintained in the supervisor’s personnel file. An example of a “Memorandum for Record” for documenting this review is included on Page 50.

M. The contractor shall make continuous checks to ensure the EEO/AA Policy is being adhered to and the company’s AA obligations are being met.

N. The contractor shall send copies of the review documentation to all contracting agencies.

5. NON-DISCRIMINATION - WORKING ENVIRONMENT:

A. The contractor must maintain a working environment free of harassment, intimidation, and coercion at all sites and facilities at which employees are assigned to work.

- B. The contractor should assign at least two (2) minorities and females to each work site whenever possible (Helps to reduce isolation and curb hostile actions/behavior).
- C. The contractor must specifically ensure that all supervisory personnel and workers are aware of the company policy and that the policy is rigidly enforced. Two examples of letters to make the supervisors and employees aware of this policy are provided on Pages 51 and 52.
- D. As further documentation of dissemination of policy, the contractor may want to have all employees sign a statement that they are aware of the company policy and retain these statements in the company's EEO files.
- E. The contractor shall certify that all facilities and company activities are non-segregated. Exceptions are separate or single-user toilets/changing facilities that are provided to ensure privacy between sexes and assignment of disabled parking areas for accessibility. Certification should be posted on all company and job site bulletin boards.
- F. The contractor shall obtain similar certifications from proposed subcontractors or material suppliers (prior to award of subcontracts or consummation of material supply agreements of \$10,000 or more) and will retain such certifications in its files. An example certification is provided on Page 53.

6. OPEN SHOP RECRUITMENT:

- A. The contractor shall establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the contractor has employment opportunities available, and maintain a record of the sources responses. Example letter and forms for documentation are provided as follows:
 - Letter to minority and female recruitment sources – Page 54.
 - Minority and female recruitment source list – Page 55.
 - Documentation of Minority/female responses – Page 56.
- B. The contractor shall maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and any minority or female applicants referred by a recruitment source or community organization (to include the source of referral). The employment action taken in regard to each applicant shall be documented. An example form for documentation of this information is provided at Page 57.
- C. The contractor shall contact and/or visit minority, female and community organizations, schools and minority and female recruitment and training organizations to inform them of the firm's recruitment policy and of the opportunity for minorities and females to receive on-the-job training to help them qualify for employment/promotion opportunities.

- D. The contractor shall document all recruitment efforts and retain this documentation in the EEO files. An example of an employment/training opportunity letter to recruitment sources is provided on Page 54. All actions involving recruitment sources must be results-oriented and followed up on to be considered valid or best effort actions.
- E. The contractor shall encourage current minority and female employees to recruit other minority and female applicants. Information and procedures with regard to referring minority group applicants will be discussed with employees.
- F. Where reasonable, contractors should provide office and on-site after-school, summer, and vacation employment to minority and female youths in order to foster basic skills development and increase interest in the construction trades.

7. UNION RECRUITMENT:

A.

8. TRAINING:

- A. The contractor will assist in locating, qualifying and increasing the skills of minority groups and female employees, and applicants for employment.
- B. Consistent with the contractor's workforce requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship and on-the-job training programs for the geographical area of contract performance. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in the first year of their apprenticeship or training.
- C. Training Special Provisions (TSPs) are included in select contracts and training will be in accordance with those specific contract provisions. When this occurs, subparagraph B above is superseded.
- D. TSP requirements can be met by actively participating in the Tennessee Road Builders Association's (TRBA) TSP Program. The TRBA Program has been approved by DOL , FHWA and TDOT. However, the contractor has the option to select the training program he wishes to use as long as it is approved by the State and FHWA.
- E. Contractors meeting their affirmative action requirements under this program must make a good faith effort to achieve the goals for each trade employed.
- F. The contractor will advise employees and applicants for employment of availability of training programs and entrance requirements for each program. An example of a notification letter to recruitment sources is provided on Page 58. Contractor should document all notification provided to employees.

9. WAGES AND PROMOTIONS:

- A. The contractor shall conduct at least an annual inventory and evaluation of all minority and female personnel for promotional and training opportunities.
- B. The contractor shall make a detailed evaluation of each minority and female employee and fully document rationale for selection and non-selection of each for a raise or promotion. The contractor shall maintain a copy of the results of the review in the EEO files and forward a copy to the Regional Contract Compliance officer. An example of a review result submittal letter is provided on Page 59.
- C. The contractor shall ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO Policy and contractor obligations under these specifications are being carried out.

10. DBE UTILIZATION:

- A. Disadvantaged Business Enterprises (DBE), as defined in 49 CFR 23, shall have equal opportunity to compete for and perform subcontracts under any construction contract let by TDOT.
- B. Specific instructions on the use of DBEs/DBE Goals is contained in Tennessee Special Provisions 1246 and 1247 and will be included in all applicable TDOT contracts.
- C. To assist contractors and DBE, TDOT maintains a list of certified DBE. A list of those DBE is available from the TDOT Construction website www.tdot.state.tn.us/construction/ or the Small Business Development Office website at www.tdot.state.tn.us/civil-rights/smallbusiness/.
- D. Each contractor should appoint a Disadvantaged Business Enterprise Liaison Officer and send notification of this appointment to all contracting agencies, post it on the Company bulletin board and retain a copy in the EEO files. An example of a notification letter is provided on Page 60.

DOCUMENTATION

DOCUMENTATION

DOCUMENTATION

As previously stated, a good basis for proving that you are complying with, or making a Good Faith Effort to do so, EEO/AA requirements is preparing, using and maintaining good documentation of all efforts that have gone into your program. Provided on the following pages are examples of letters, forms and other means of documentation that may be used as presented, or modified to meet your particular situation, to record your efforts. You do not have to use these examples if you already have documentation in place, or want to create your own, that provides the required information.

Letters should be on Company Letterhead and in standard business format. Explanatory remarks made the author in italics or parenthesis on these examples are for guidance only and should not be included in your final documentation.

INDEX OF EXAMPLE LETTER/FORMS

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CONTRACTOR'S EEO/AA POLICY STATEMENT (Example)

The EEO Policy notation "An Equal Opportunity Employer" must be on company letterhead and in all employment advertising.

The EEO/AA Policy statement must be signed by the company head and have a current date. The EEO/AA Policy statement must be posted at company offices and all job sites.

The EEO/AA Policy statement must be submitted to the TDOT Civil Rights Division, Affirmative Action Program, annually each year the contractor has an active contract.

It is the policy of (**Company Name**) not to discriminate against any applicant for employment, or present employee, because of race, color, religion, national origin, age, sex, disability or veteran status.

(**Company Name**) will take affirmative action to ensure that the EEO/AA Policy is implemented with particular regard to: advertising, application procedures, compensation, demotion, employment, fringe benefits, job assignment, job classification, layoff, leave, promotion, recruitment, rehire, social activities, termination, transfer, upgrade, working conditions and selection for training to include apprenticeship, pre-apprenticeship and on-the-job training.

(**Company Name**) will continue to make it understood to the employment sources/agencies with which it deals, and in employment opportunity announcements/ads, the above mentioned EEO/AA Policy and that all of the company's employment decisions are based on individual merit only.

All current employees of (Company Name) are requested to encourage qualified disabled persons, minorities, females, special disabled veterans, and Vietnam Era veterans to apply for employment, on-the-job training or for union apprenticeship. It is the policy of (Company Name) to satisfy reasonable special accommodations for qualified disabled individuals.

It is the policy of (Company Name) that all company activities, facilities and job sites are non-segregated. Separate or single-user toilet and changing facilities are provided for privacy between genders. Disabled parking spaces may be assigned to accommodate accessibility needs.

It is the policy of (Company Name) to ensure and maintain a working environment free of coercion, harassment and intimidation at all job sites, and in all facilities at which employees are assigned to work. Any violation of the policy should be immediately reported to your supervisor or the Company EEO Officer identified below:

EEO Officer Name:

Address/Office location:

Telephone #:

(Signature block of **Company Head**)

(Date)

EEO OFFICER APPOINTMENT LETTER (EXAMPLE)

(NOTE: Appointment letter will be on Company Letterhead and will be in normal business letter format. The letter should be made available to all employees and posted on bulletin board.

TO: ALL EMPLOYEES

Mr./Ms. _____ is appointed the Equal Employment Opportunity (EEO) Officer for the IBA Construction Company. He/She will handle all complaints which allege discrimination because of race, color, religion, national origin, age, sex, disability or veteran status. He/She has full authority to take necessary actions to effectively administer and promote an active Equal Employment Opportunity/Affirmative Action (EEO/AA) Program for the Company and to represent the Company in any activities dealing with the EEO/AA requirements specified in Federal-aid contracts with the Tennessee Department of Transportation.

This Company is bound to live up to the provisions of the Civil Rights Act of 1964 and 1991, and other laws and regulations relating to EEO/AA. Anyone who believes he or she has been discriminated against should report this fact immediately.

Mr./Ms. _____ office address is _____ and he/she can be reached by telephone at (000) 000-0000 during normal business hours. For emergency contact outside of normal hours of operation, Mr./Ms. _____ can be reached by telephone at (000) 000-0000.

(Signature)
Signature Block of Company Head

LETTER OF NOTIFICATION – AWARD OF CONTRACT (EXAMPLE)
(Submit to nearest District Office)

Nashville District Office
U.S. Dept. of Labor
ESA-OFCCP
1321 Murfreesboro Road, Ste. 301
Nashville, TN 37217

Memphis District Office
U.S. Dept. of Labor
ESA-OFCCP
167 North Main Street, Suite 101
Memphis, TN 38103

Dear Sir:

In accordance with title 41 CFR Part 60-4.2, you are hereby notified of the award of a subcontract in excess of \$10,000. Information pertaining to the subcontract is as follows:

NAME OF SUBCONTRACTOR: _____

ADDRESS: _____

TELEPHONE: _____

SUBCONTRACTOR'S EMPLOYER IDENTIFICATION #: _____

DOLLAR AMOUNT OF SUBCONTRACT _____

ESTIMATED STARTING DATE: _____

ESTIMATED COMPLETION DATE: _____

GEOGRAPHIC LOCATION OF PROJECT: _____

OWNER/CONTRACTING AGENCY: _____

TENNESSEE PROJECT #: _____

Should your office require additional information regarding this subcontract please contact

(Name and telephone number) _____.

Sincerely,

Signature
(EEO Officer Signature Block)

APPOINTMENT LETTER– EEO OFFICER (EXAMPLE)

,Director
Civil Rights Division
Affirmative Action Program
505 Deaderick St., Suite 1800
Nashville, TN 37243

Dear :

This letter is to advise you that the following company official has been appointed to serve as our Equal Employment Opportunity (EEO) Officer in assuring that (IBA Construction Company) is in full compliance with Equal Employment Opportunity/Affirmative Action (EEO/AA) requirements. He/she has full responsibility and authority to carry out all required EEO/AA related duties.

EEO Officer Name: _____

Home Address: _____

Company Address: _____

Home Telephone: (000) 000-0000

Work Telephone: (000) 000-0000

Sincerely,

Signature
Head Official's Signature Block)

UNION LETTER (EXAMPLE)

_____ (Name of Union)

_____ (Local #)

_____ (Address)

_____ (City/State/Zip)

Dear _____.

The IBA Construction Company is committed to nondiscrimination in employment. Any person who applies for a job with this company will not be discriminated against because of race, color, national origin, religious creed, age, sex, disability or veteran status.

In policy statements, all International Unions have declared a firm commitment to this type of policy in accordance with the Civil Rights Acts of 1964 and 1991 and Executive Order 11246.

Therefore, we request your assistance in helping us meet Equal Employment Opportunity and Affirmative Action requirements through aggressive recruitment, training and referral practices designed to qualify and retain minorities, females and qualified persons with disabilities in the workforce.

Your continued support and commitment to nondiscrimination in employment practices is greatly appreciated.

Sincerely,

Signature
(EEO Officer)

EEO POLICY AND AFFIRMATIVE ACTION REQUIREMENTS REVIEW (SAMPLE)
(Use as many lines/pages as required to fully document)

Company: _____

Project: _____

Meeting/Review Date: _____

Meeting/Review Location: _____

Subjects Discussed and any related action items:

Company EEO/AA Policy: ____(Policy reviewed in entirety-annual submission due in July)

1. *Recruitment of minorities and females for employment/training opportunities:*

2. _____

4. _____

Suggestions: _____

Remarks: _____

Name/Title of Presenter/Reviewer: _____

Signature of Presenter/Reviewer: _____

LIST OF ATTENDEES

Name/Signature

Name/Signature

EEO/AA POLICY – LETTER OF TRANSMITTAL (EXAMPLE)

UB Another Construction Company
P.O. Box 58624
Wee Hope, TN 00000

Gentlemen:

Enclosed is a copy of the IBA Construction Company's Equal Employment Opportunity/ Affirmative Action (EEO/AA) Policy Statement. Our company strictly adheres to this policy and we are obligated by the provisions of our federally assisted construction contracts to do business only with EEO/AA compliant firms. If you should have any questions regarding our firm's EEO/AA Policy, I would be pleased to discuss them at your convenience.

Please provide us with a copy of your firm's EEO/AA Policy Statement so that we may be assured that your firm is an EEO employer and so that we may document our cooperative EEO/AA efforts in preparation for any possible EEO Compliance Reviews that may be conducted by State and Federal officials.

Your assistance and cooperation in this matter are greatly appreciated.

Sincerely,

 Signature
(EEO Officer Signature Block)

Enclosure

WANT ADS (EXAMPLE)

Construction Workers Needed. Equal opportunity is offered to any individual (minority, non-minority, male or female) interested in making a career in the construction industry.

At this time, IBA Construction is offering interested females the opportunity of on-the-job training in the area of highway bridge building where they will gain masonry and carpentry experience.

IBA Construction Company, Phone: (000) 000-0000

“An Equal Opportunity Employer”

IBA Construction Company is an Equal Opportunity Employer. Minorities and females are highly encouraged to apply. We employ qualified (training available), reliable, drug free, safety-minded, and professional individuals without regard to race, sex, ancestry, arrest/court record, color, creed, national origin, age, veteran status, disability, sexual orientation or marital status. Currently we have openings for three concrete finishers; one of those positions has an on-the-job training opportunity. Due to the nature of our work, employees must be able to travel to job-sites throughout the State of TN. Interested applicants should contact the IBA Construction Company's Human Resource Administrator a phone # (000) 000-0000 or by e-mail at NewHire@IBA Construction.com/employment.

ANNUAL EEO/AA REVIEW MEMORANDUM FOR RECORD (EXAMPLE)

MEMORANDUM FOR RECORD:

On (Month/day/year) a review of the implementation of the IBA Construction Company's Equal Employment Opportunity/Affirmative Action (EEO/AA) policies and obligations was conducted. All supervisory and human resource personnel at all levels of management were found to be adhering to the Company's EEO/AA Policy.

A detailed review of our firm's affirmative action obligations was conducted and we found that we had met or exceeded all affirmative action obligations with the exception of meeting our goal for female carpenters.

To correct this shortcoming, we have intensified our female recruitment efforts. Attached is a listing of minority/female recruitment sources that we contacted along with their response (*Enclose a copy of the minority/female recruitment source response register provided as an example on Page 55*). As a result we have hired one female employee that is presently completing her initial training in the Carpenter Training Course at the Wood-Butchers Vocational-Technical School. She will begin work on (Month/Day/Year), and will receive detailed on-the-job training as a carpenter.

Signature
(EEO Officer Signature Block)

Enclosure

POLICY LETTER TO SUPERVISORS/MANAGERS AND HUMAN RESOURCE PERSONNEL (EXAMPLE)

TO: All supervisors/managers/human resource personnel.

The IBA Construction Company is committed to nondiscrimination in employment. Any person who applies for a job with this company will not be discriminated against because of race, color, religious creed, national origin, sex, age, disability or veteran status.

Very often it is your responsibility for filling job vacancies. Attention should be given to the distribution of minority, female and qualified disabled personnel based on demonstrated skill, training and promotion potential, education and experience.

When contacting employment sources to ask for referrals, request employment sources to do a vigorous job of recruiting for minorities, females and qualified disabled personnel. Always explain the company's policies and reasons for doing so.

It is the duty of each supervisor, manager, human resource person, and anyone else involved with making decisions in the recruitment/employment process, to exert every care in being fair in the administration of this policy.

All recruitment/employment advertisements placed in newspaper or other printed media will contain the phrase "An Equal Opportunity Employer." Media that has a high circulation among potential minority, female or disabled applicant pools should be specifically targeted for recruitment and employment purposes.

All applications for employment must conform to the Company's Equal Employment Opportunity/Affirmative Action (EEO/AA) Policy and any questions to be used for applicant interviews will be carefully prepared to prevent any possible discrimination in the selection process.

It is the policy of the IBA Construction Company to ensure and maintain a working environment free of coercion, harassment and intimidation at all job sites, and in all facilities at which employees are assigned to work. Any violation of the policy should be immediately reported to the Company EEO Officer, phone # (999) 999-9999.

Sincerely,

_____*Signature*_____
(EEO Officer Signature Block)

WORKING ENVIRONMENT POLICY LETTER (EXAMPLE)

TO: ALL EMPLOYEES OF THE IBA CONSTRUCTION COMPANY

SUBJECT: WORKING ENVIRONMENT

IT IS THE POLICY OF THE IBA CONSTRUCTION COMPANY TO ENSURE AND MAINTAIN A WORKING ENVIRONMENT FREE OF HARASSMENT, INTIMIDATION, AND COERCION AT ALL SITES AND IN ALL FACILITIES AT WHICH OUR EMPLOYEES ARE ASSIGNED TO WORK. SPECIFIC ATTENTION WILL BE GIVEN TO ENSURE THAT MINORITIES, FEMALES AND EMPLOYEES WITH DISABILITIES ARE PROVIDED A WORK ENVIRONMENT FREE OF HARASSMENT, INTIMIDATION AND COERCION AT ALL TIMES.

STRICT ADHERENCE TO THIS POLICY IS EXPECTED FROM THE ENTIRE WORKFORCE OF THE IBA CONSTRUCTION COMPANY AND ADHERENCE TO THE POLICY WILL BE MONITORED AT ALL LEVELS OF RESPONSIBILITY. ANYONE OBSERVING ANY HARASSMENT, INTIMIDATION, OR COERCION SHOULD REPORT THE ACTION IMMEDIATELY TO THEIR SUPERVISOR OR TO THE COMPANY EEO OFFICER.

SINCERELY,

 SIGNATURE
SIGNATURE BLOCK OF HEAD OFFICIAL

TO: EQUAL EMPLOYMENT OFFICER, PERSONNEL OFFICER

I HAVE READ THE ABOVE COMPANY POLICY AND IT HAS BEEN EXPLAINED TO ME BY MY SUPERVISOR. AS A CONDITION OF MY EMPLOYMENT, I HEREBY AGREE TO COMPLY WITH THE ABOVE POLICY AND REPORT ANY VIOLATIONS OF THIS POLICY TO THE COMPANY EEO OFFICER.

(Employee's Printed Name)

(Employee's Signature)

(Date)

CERTIFICATE OF NON-SEGREGATED FACILITIES (EXAMPLE)

(Required of all subcontractors) –

Subcontractor Letterhead-

IBA Construction Company
222 Baylor Road
Resolve, TN 00000

Certification of Non-Segregated Facilities:

This certification is provided to fulfill our contractual obligations on Project # _____,
Contract # _____.

This company does not maintain or provide for its employees any segregated facilities at any of our offices, shops, work areas or job sites. This firm does not allow its employees to work at any location where segregated facilities are maintained.

This firm agrees that any breach of this certification is a violation of the Equal Employment Opportunity/Affirmative Action provisions of federally-assisted highway construction contracts.

As used in this certification, the term “segregated facilities” means any waiting rooms, work areas, restrooms and washrooms (except single user toilets/changing facilities to ensure privacy between genders), restaurants and other eating areas, time clocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive, or are, in fact, segregated on the basis of race, color, religious creed, national origin, age, or disability because of habit, local custom or otherwise. The only exception will be for the disabled when the demands for accessibility override (e.g. disabled parking).

Any breach of these clauses may be grounds for debarment as provided in 29 CFR 5.6(b).

Name of Company

Printed Name and Title of Official Company Representative

Signature of Official Company Representative

Date Signed

EMPLOYMENT OPPORTUNITY LETTER (EXAMPLE)
(Recruitment sources, community organizations, etc.)

Job Placement Specialist
Employment Resources, Inc.
Wegottum Drive
Resolve, TN 00000

Dear Mr./Ms. _____:

The IBA Construction Company is an Equal Opportunity Employer. It is our company's policy to assure that all applicants are employed, and employees are treated during employment, without regard to their race, color, religious creed, national origin, sex, age, handicap or veteran status. This policy includes all aspects of employment, upgrading, demotion or transfer, recruitment or recruitment advertisement, reduction in force or termination, rates of pay or other forms of compensation, and selection for training.

We are specifically charged by the provisions of our Federal-Aid contracts to recruit and train minorities, females, qualified disabled persons, qualified disabled veterans and veterans of the Vietnam Era. We seek your assistance in fulfilling these requirements.

Presently we are seeking to hire the following personnel to work in _____ County, Tennessee just south of Resolve on route 50.

One (1) Carpenter – Wage rate: _____

One (1) Ironworker – Wage rate: _____

One (1) Truck Driver – Wage rate: _____

Four Laborers – Wage rate: _____

The job will start on Month/Day/Year and is expected to last for nine months.

We request that your agency refer qualified personnel to our firm for possible employment. We anticipate future employment needs for the project in _____ County and as these needs arise, we will continue to contact your office for assistance.

Your prompt assistance in referring applicants to fill the above listed positions will be greatly appreciated.

Sincerely,

_____ *Signature* _____ (Personnel Officer)

MINORITY/FEMALE RECRUITMENT SOURCE RESPONSE REGISTER (EXAMPLE)

Agency Contacted	Date	Response
Work Options for Women, Inc Opportunity Drive Resolve, TN 00000	08/01/16	Agency referred Sue Smith and Peggy Johnson for positions as carpenters. Both applicants were interviewed. Smith was found not qualified for carpenter position. Johnson was hired as carpenter trainee

MINORITY AND FEMALE APPLICANT ROSTER (EXAMPLE)

Name/Address	Phone	Gender	Ethnic Group	Referred Source	Action Taken/ Comments

MINORITY AND FEMALE RECRUITMENT/REFERRAL SOURCE LIST (EXAMPLE)

Job Services Center
Easy Street Resolve,
Resolve, TN 00000

Dear _____:

The IBA Construction Company will start a construction project on Route 50 south of Resolve, TN on April 1, 2007. Due to a lack of qualified minorities and females in the project Area, we will be using our Internal On-The-Job Training Program to train minorities and females as equipment operators and carpenters. There are two (2) positions for each craft listed. A copy of the training program, entrance requirements and the wage scale is attached.

We will be visiting your office on March 15, 2007, to review applicants for these positions. Your assistance in referring minorities and females for this program will be greatly appreciated.

Sincerely,

Signature
(EEO Officer)

Enclosures

NOTE: Union contractors may modify this letter to fit their particular circumstances and forward it to the appropriate union official.

ANNUAL MINORITY AND FEMALE PROMOTIONAL/TRAINING REVIEW

(EXAMPLE)

DATE:

MEMORANDUM FOR RECORD:

On July 6, 2007, the annual review of all minority and female personnel for promotional and training opportunities was conducted. Results follow:

1. Mr. Claude Johnson (Cement Mason) was promoted to Cement Foreman.
2. Ms. Linda Lee (Laborer) was selected to be enrolled in the training program as a Cement Mason.
3. Mr. Ramon Torres (Carpenter Trainee) was selected for advanced graduation as a Journeyman Carpenter. Mr. Torres had completed only 55% of the training hours required for graduation; however, he had mastered and demonstrated the necessary skills required for graduation.
4. Ms. Kim Cho (Carpenter Trainee) has been struggling to maintain training standards. We have increased efforts to prepare her for the trade; however, we have seen little progress in her ability to retain and demonstrate the necessary skills required for certification. An evaluation will be conducted on August 30, 2007, to determine if she should be retained in the training program.
5. Ms. Wanda Carver (Secretary) of our home office will be promoted to Office Manager effective August 22, 2007.
6. Mr. Jim Smith (Truck Driver) was selected to be enrolled in the training program as a carpenter trainee.

Sincerely,

Signature _____
(EEO Officer)

DBE LIAISON OFFICER – NOTIFICATION LETTER (EXAMPLE)

, Director
Civil Rights Division
Small Business Development
505 Deaderick St., Suite 1800
Nashville, TN 37243

Dear:

This letter is to advise you that the following company official has been appointed to serve as our Disadvantaged Business Enterprise (DBE) Liaison Officer in assuring that IBA Construction Company is in full compliance with Federal and State requirements. He/she has full responsibility and authority to carry out all required DBE-related duties.

DBE Liaison Officer Name: _____

Home Address: _____

Office Address: _____

Home Telephone: (000) 000-0000

Work Telephone: (000) 000-0000

Sincerely,

Signature
(Head Official's Signature Block)

EXAMPLE”
(CONTRACTOR’S NAME)
SUPERVISOR EVALUATION

Name of Supervisor: _____ Job Title: _____

Project Number: _____ Review Date: _____

As a federally-assisted government contractor, we are required to conduct an annual review of all supervisors regarding their adherence to and performance under the Company’s EEO policies and Affirmative Action obligations. The following areas of your performance in regard to said policies and obligations were evaluated and specific comments are provided in regard to whether you are currently meeting requirements or to provide direction as to where your performance needs improvement:

1. **Requirement:** Prepares minorities and women for training and promotional opportunities.

Performance Level (Check one): A. Acceptable ____ B. Needs Improvement ____

Specific examples of work behavior to support evaluation or improve performance:

2. **Requirement:** Takes necessary steps to ensure that the workforce is free from harassment, intimidation and coercion and that all facilities and services are provided on a non-segregated basis. Ensures all EEO/AA related complaints are handled according to policy.

Performance Level (Check one): A. Acceptable ____ B. Needs Improvement ____

Specific examples of work behavior to support evaluation or improve performance:

3. **Requirement:** Encourages current minority and female employees to refer other minorities and females for employment, training and promotional opportunities.

Performance Level (Check one): A. Acceptable ____ B. Needs Improvement ____

Specific examples of work behavior to support evaluation or improve performance:

4. **Requirement:** Holds recruitment and referral sources (to include unions if applicable) accountable for referring minority and female applicants to assist in meeting EEO/AA obligations.

Performance Level (Check one): A. Acceptable ____ B. Needs Improvement ____

Specific examples of work behavior to support evaluation or improve performance:

4. **Requirement:** Regularly reviews company EEO Policy with employees. **Performance Level (Check one):** A. Acceptable ____ B. Needs Improvement ____ **Specific examples of work behavior to support evaluation or improve performance:**

5. **Requirement:** Ensures that all personnel actions such as seniority practices, work assignments and job classifications are non-discriminatory and are in compliance with federal, state and local civil rights laws.

Performance Level (Check one): A. Acceptable ____ B. Needs Improvement ____

Specific examples of work behavior to support evaluation or improve performance:

(Evaluating Official's Signature)

(Evaluated Supervisor's Signature)

SECTION IV
EEO/ POSTERS/NOTICES

The contractor shall post in conspicuous places, available to employers and applicants for employment, EEO posters and notices setting forth provisions for nondiscrimination.

Letter notices should be typed on company letterhead or stationery.

POSTINGS

Contractors must post the posters and notices required by Federal and State laws. Normally these are on a site Bulletin Board that meets the following requirements:

Location:

- The postings must be located in a conspicuous place and be available at all times to employees and applicants for employment;
- Do not post documents inside company trailers/offices that are closed during non-work hours. Postings can be mounted on the outside wall of the trailer/offices as long as they are accessible at all times; and
- The postings can be erected behind fencing or other transparent forms of protection intended to deter theft and vandalism, but not so far away from the barrier to be unreadable. If posters with extremely fine printing are used, this is not an option.

Construction and Maintenance of the Construction Site Bulletin Board/Posting Area:

- The bulletin board/posting area should be constructed or sheltered so that the posters and notices are weather proofed as much as possible; If the posters/notices are vandalized, replace them; and When posters fade, replace them. Colors are especially susceptible to fading. These posters may need to be changed often during the life of the project.
Posters/notices too faded to read all wording are not in Compliance with requirements.

Required Federal Posters/Notices:

1. Equal Opportunity is the Law Poster. (Form EEOC-P/E-1, required by 41 CFR 601.4(b)(1)).
2. Your Rights Under USERRA. (Use poster or text from www.dol.gov/vets website, required by 20 CFR Part 1002). Poster and/or text posted should be material published after January 2006 when this rule became effective.
3. Notice- Federal Aid Projects-Fraud Notice. (Form FHWA 1022, required by 18 CFR 1020 and 23 CFR 635.119).
4. Federal Minimum Wage Poster and Notice. (Form WH 1088 and WH 1313, required by 29 CFR 5.5(a)(1). Note actual wage rates must be entered on WH 1313
5. Wage Rate Information. (Form FHWA 1495, required by FHWA 1273). Note that actual wage rates must be entered on FHWA 1495.
6. Contractor's EEO Policy Statement and Letter Appointing the Company's EEO Officer for the Project. (Statement must be developed by contractor per requirements of 41 CFR 60-741.44)

1. Safe Workplace Poster. (OSHA Form 3165, required by 29 CFR 1903.2(a)(1).
2. Polygraph Notice. (Form WH 1462, required by 29 CFR 801.6).
3. Family and Medical Leave Act. (Form WH 1420, required by 29 CFR 825.300(a).
4. 24 Hour Emergency Numbers. (Contractor must post numbers to call in the event of an emergency, required by 29 CFR 1926.50(f).

NOTE: Department of Labor (DOL) Forms are available at the following website: <http://www.dol.gov/osbp/sbrefa/poster/matrix.htm> or you can contact the DOL by telephone at 1-888-972-332, or by email at Contact-OSBP@dol.gov for poster information. The “Equal Employment Opportunity is the Law” poster is available on this website.

Information on OSHA Forms is available at 1-800-321-6742 or by visiting their website at www.osha.gov

Required State Posters/Notices:

1. Child Labor. Tennessee Code paragraph 50-5-111. (Applies to employers of minors subject to the child labor regulations).
2. Fair Employment. Tennessee Code paragraph 4-21-202.
3. Worker’s Compensation. Tennessee Code paragraph 50-6-407.
4. Unemployment Insurance. Tennessee Code paragraph 50-7-304.
5. Payday Notice. Tennessee Code 50-2-103.
6. OSHA. Tennessee Code paragraph 50-3-2005. Posting of the Federal Poster meets requirement.

SECTION V
FORMS

FORMS

1. Request for Trainee Classification Approval Form.

This form must be completed and submitted (five copies) at or before the preconstruction conference. The training program chosen must be approved by TDOT and the Federal Highway Administration (FHWA). At this time, the Tennessee Road Builder's Training Program (TRBA) has been approved and provides the forms listed in items 1 and 2. If the contractor desires to participate in another training program, then this program must be approved by TDOT and the FHWA before he can start work. The classification chosen must be one that is under-utilized for minorities and females and one where a significant number of training hours can be achieved. The contractor will not be allowed to start project work until this form has been received and approved. Instructions for training requirements/programs are provided in Special Provision 1240 and from TRBA.

The TRBA can be contacted at:

Tennessee Road Builders Association 217 6th Avenue, North Nashville, TN 37219
Telephone: (615) 255-5751

2. Notice of Personnel Action Form.

The contractor selects/hires applicants and fills out/submits the Personnel Action Forms to the TRBA. The contractor then identifies the trainee(s) on the certified payrolls that go to the field office and also sends in the number of hours worked by each trainee to the TRBA. The TRBA monitors all training activities and provides proper notification to TDOT field construction offices and to the Civil Rights Office on all actions to include the number of hours worked, termination, and graduation. Specific instructions for training requirements/programs are provided in Tennessee Special Provision 1240 and from TRBA.

3. Employment Report Form FHWA Form 1391.

This form is an annual submission to the TDOT Regional Compliance Officer for every month of July in which work was performed by the contractor or subcontractor. The Compliance Officer will forward a copy of the form to the Civil Rights Office. This form is also requested of any contractor who has been selected for a Contract Compliance Review in order to bring their employment data up to date for the period of time covered by the review.

4. Other Reports/Forms.

When and if required, the contractor will complete other reports/forms documenting compliance with EEO requirements as requested/instructed by the Project Engineer or TDOT Civil Rights Office staff. This requirement is especially applicable to contractors who have been selected for a Contract Compliance Review.

SECTION VI

RECRUITMENT/REFERRAL SOURCES

The contractor is required to direct recruitment efforts, both oral and written, toward sources likely to yield minority and female applicants in the contractor's recruitment area in order to ensure EEO/AA requirements are met. All correspondence with sources and all advertisements should contain the phrase "An Equal Opportunity Employer" (do not use initials) in the body of the letter or at the bottom of letters and advertisements.

The following listing of possible recruitment/referral sources is provided as a "starting point" for the contractor's recruitment efforts. These are general sources identified by the Department and should be supplemented by the contractor who should have more knowledge of and accessibility to sources, agencies and community organizations in their particular recruitment area.



East Tennessee



The following have a working partnership with TDOT:

Ms. Anita Williams
[Goodwill Industries of Tennessee](#)
2017 Bookside Lane
Kingsport, TN 37660
Phone: (423) 245-0600

Ray Abbas
[Knoxville Area Career Center](#)
2700 Middle Pike
Knoxville, TN 37201
Phone: (865) 594-5500

Mr. Tim Chavis
[United Way of Chattanooga](#)
P.O. Box 211
427 Market Street
Chattanooga, TN 37405
Phone: (423)265-8000

Ms. Phillis Nicholas
[Knoxville Area Urban League](#)
1514 East Fifth Avenue
P.O. Box 1911
Knoxville, TN 37917
Phone: (865) 524-5511

Mr. Gary Brewster
[Mats](#)
P.O. Box 1618
Morristown, TN 37816
Phone: (423) 587-9215

Ms. Wendy Bennett
[Signal Centers Families First](#)
1817 Dobbs Avenue
Chattanooga, TN 37404
Phone: (423) 648-

Father Reagan Shriver
[Associated Catholic Charities](#)
119 Dameron Avenue
Knoxville, TN 37917
Phone: (865) 524-9896

Ms. LaBreeska Massey
[Southeast Tennessee Career Center](#)
5600 Brainerd Road, STE A5
Chattanooga, TN 37411
Phone: Chattanooga, TN 37403



Continued

Ms. Linda Franklin

Chattanooga Urban League

730 East M.L. King Boulevard
Chattanooga, TN 37403
Phone: (423) 756-1762

Appalachian Women's Guide

429 Main Street
Tracy City, TN 37387
Phone: (931) 592-8558

Career Assessment Center

101 East Fifth Avenue, Room 211
Knoxville, TN 37917
Phone: (865) 594-5060

Tennessee Career Center @ Crossville

60 Ridley Street, Suite 108
Crossville, TN 38555
Phone: (931) 484-4651

East Tennessee Technology Access Center

116 Childress South
Knoxville, TN 37920
Phone: (865) 219-0130

Hancock County Labor & Workforce Development

P.O. Box 791
Sneedville, TN 37869
Phone: (423) 733-4785

Tennessee College of Applied Technology

30 Courthouse Square
Byrdstown, TN 38549
Phone: (931) 864-8515

Blount County Workforce

201 S. Washington Street
Maryville, TN 37804
Phone: (855) 257-3964

Appalachian Outreach

190 West Old Andrew Johnson Hwy
Jefferson City, TN 37760
Phone: (865) 475-5611

Knox County Human Resources

400 Main Street, Suite 360
Knoxville, TN 37902
Phone: (865) 215-2321/(865)215-2313

Knoxville Women's Center

220 Carrick Street
Knoxville, TN 37921
Phone: (865) 546-8961

Priority One

1855 Executive Park Drive, NW
Cleveland, TN 37312
Phone: (423) 479-4170

Southeast TN Development District

Eastgate Town Center
5600 Brainerd Road
Chattanooga, TN 37411
Phone: (423) 894-5354

Tennessee Opportunity Programs

209 E. Main Street
Morristown, TN 37814
Phone: (423) 586-3855

Jacobs Creek Job Corps Center

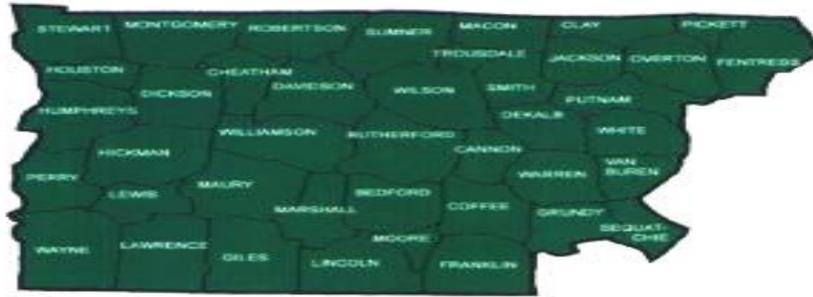
984 Denton Valley Road
Bristol, TN 37921
Phone: (423) 878-4021

Job Corps-Knoxville

3511 Western Avenue
Knoxville, TN 37921
Phone: (865) 525-4474



Middle Tennessee



The following have a working partnership with TDOT:

Metro Nashville Advancement Center

665 Mainstream Drive, Suite 200
Nashville, TN 37228
Phone: (615) 253-8920 Fax: (615) 253-5525

Mr. Vernon Veazay

Operation Stand Down

1101 Edgehill Avenue, Suite 1000
Nashville, TN 37203
Phone: (615) 321-3919

Mr. Mike Daniels

Labor and Workforce Development

Allied Center
3763 Nolensville Pike
Nashville, TN 37211
Phone: (615) 741-3556

Urban League of Middle Tennessee

50 Vantage Way, Suite 201
Nashville, TN 37228
Phone: (615) 254-0525

Appalachian Women’s Guild

429 Main Street
Tracy City, TN 37387
Phone: (931) 592-8558

Marshall County Career Center

980 south Ellington Parkway
Lewisburg, TN 38401
Phone: (931) 359-9726/(931)359-6812

Career Network of Hendersonville

1 Executive Park Drive
Hendersonville, TN 37075
Phone: (615) 822-1000

Maury County Career Center

116 Nashville Hwy, Suite 106
Columbia, TN 38401
Phone: (931) 490-3800



Continued

Community Career Center

3703 Park Avenue
Nashville, TN 37209
Phone: (615) 298-6752

Nashville Opportunities Industrialization

P.O. Box 80507
Nashville, TN 37208
Phone: (615) 321-0021

PENCIL Foundation

421 Great Circle Road, Suite 100
Nashville, TN 37228
Phone: (615) 242-3167

Tennessee Career Center of Giles County

125 South Cedar Lane
Pulaski, TN 38478
Phone: (931)-363-9550

Tennessee Career Center of Perry County

113 Factory Street, Suite 1
Linden, TN 37096
Phone: (931) 589-5012

Tennessee Department of Labor & Workforce Dev

301 James Robertson Parkway
Nashville, TN 37201
Phone: (615) 741-3626

Davidson County Career Center

665 Mainstream Drive, Suite 210
Nashville, TN 37228
Phone: (615) 862-8890

Nashville Workforce Resource Ctr

3761 Nolensville Road
Nashville, TN 37211
Phone: (615) 834-4900

Families First

107 North Porter Street
Winchester, TN 37398
Phone: (615) 967-1150

Tennessee Opportunity Programs

437 Nissan Drive
Smyrna, TN 37167
Phone: (615) 741-3626



West Tennessee



Organizations and contact information that may be helpful:

Catholic Charities of West Tennessee

325 Jefferson Avenue
Memphis Homeless Program
Memphis, TN 38104
Phone: (901) 722-4700

Ms. Robyn Stone
Job Link Program
3030 Poplar Avenue
Memphis, TN 38111
Phone: (901)415-2785

Catholic Charities of West Tennessee

Genesis House
Attn: Dave Lucchesi
325 Jefferson Avenue
Memphis, TN 38104
Phone: (901) 722-4700

Ms. Sandra Dallas
413 North Cleveland Street
Memphis, TN 38104
Phone: (901) 272-2491

Catholic Charities of West Tennessee

Veterans Program
Attn: Sharon Kowalke
1325 Jefferson Avenue
Memphis, TN 38104
Phone: (901) 722-4700

United Way of Mid-South

1407 Lenox Center Court
Memphis, TN 38115
Phone: (901) 433-4300

Labor & Workforce Development

140 S. Wilson Avenue
Brownsville, Tennessee 37351
Phone: (731) 661-0433

Tennessee College of Applied Tec

127 Industrial Drive
Ripley, Tennessee 38063
Phone: (731) 254-8521



Continued

Northwest Tennessee Career Center

313 West Cedar Street
Dyersburg, Tennessee 38024
Phone: (731) 286-3585

Tennessee College of Applied Technology

2468 Technology Center Drive
Jackson, Tennessee 38301
Phone: (731) 424-0691

Department of Labor and Workforce

67 West Church Street
Lexington, TN 38351
Phone: 968-8159

Department of Labor & Workforce

724 E. Lucky Plaza Hwy 51 North
Covington, TN 38019
Phone:

Tennessee College of Applied Technology

1600 Hwy 51 South
Covington, TN 38019
Phone: (901) 475-2528

Tennessee College of Applied Technology

3070 Highway 64 West
P.O. Box 89
Crump, TN 38327
Phone: (901) 632-3393

Department of Labor & Workforce

101 S. Lauderdale Street
Bolivar, Tennessee 38008
Phone: (731) 658-4073

Women In Community Service

1407 Union Avenue, Suite 1300
Memphis, TN 38126
Phone: (901) 276-8609

Department of Labor & Workforce

1080 Wayne Road
Savannah, Tennessee 38372
Phone: (731) 925-5095

Department of Labor & Workforce

121 West Court Square
Somerville, TN 38068

Department of Labor & Workforce

Address unavailable
Munford, TN 38058
Phone: (901) 476-5225

SECTION VII

EEO OFFICER TRAINING RESOURCES

Per 23 CFR, and as outlined in FHWA Form 1273 physically incorporated into every Federal-Aid contract, the contractor is required to designate and make known to the State highway agency contracting officers an equal employment opportunity (EEO) officer who will have the responsibility for and must be capable of effectively administering and promoting an active contractor program of EEO and who must be assigned adequate authority and responsibility to do so. It is the contractor's responsibility to ensure that the person chosen for this position has, or acquires, the background and training necessary for them to effectively administer and promote an active program of EEO. TDOT provides annual training on the Contract Compliance Review program and the EEO requirements included in Federal-Aid contracts. However, this is not designed, intended to be or can be claimed to be, training that qualifies an individual as a contractor's EEO Officer. EEO Officer qualification training, to include training to keep current in the EEO field, remains the responsibility of the individual and/or the contractor awarded the Federal-Aid contract.

In order to assist the contractor and/or contractor's EEO Officer in their continuing effort to train for and stay current on EEO issues, and for internal training for supervisor's and employees, the following listing of possible information and training resources is provided as a "starting point". These are general sources compiled by the Department from random sampling of the many available sources and except for the Federal sources are not an endorsement by TDOT for the use of any particular training resource or product provider by the contractor. **Please note that these possible resources are for information purposes only and should be supplemented by the contractor who may have more knowledge of and accessibility to sources, agencies and education opportunities in their particular operational area.**

POSTINGS

Contractors must post the posters and notices required by Federal and State laws. Normally these are on a site Bulletin Board that meets the following requirements:

Location:

- The postings must be located in a conspicuous place and be available at all times to employees and applicants for employment;
- Do not post documents inside company trailers/offices that are closed during non-work hours. Postings can be mounted on the outside wall of the trailer/offices as long as they are accessible at all times; and
- The postings can be erected behind fencing or other transparent forms of protection intended to deter theft and vandalism, but not so far away from the barrier to be unreadable. If posters with extremely fine printing are used, this is not an option.

Construction and Maintenance of the Construction Site Bulletin Board/Posting Area:

- The bulletin board/posting area should be constructed or sheltered so that the posters and notices are weatherproofed as much as possible; If the posters/notices are vandalized, replace them; and When posters fade, replace them. Colors are especially susceptible to fading. These posters may need to be changed often during the life of the project. Posters/notices too faded to read all wording are not in Compliance with requirements.

Required Federal Posters/Notices:

1. Equal Opportunity is the Law Poster. (Form EEOC-P/E-1, required by 41 CFR 601.4(b)(1)).
2. Your Rights Under USERRA. (Use poster or text from www.dol.gov/vets website, required by 20 CFR Part 1002). Poster and/or text posted should be material published after January 2006 when this rule became effective.
3. Notice- Federal Aid Projects-Fraud Notice. (Form FHWA 1022, required by 18 CFR 1020 and 23 CFR 635.119).
4. Federal Minimum Wage Poster and Notice. (Form WH 1088 and WH 1313, required by 29 CFR 5.5(a)(1). Note actual wage rates must be entered on WH 1313
5. Wage Rate Information. (Form FHWA 1495, required by FHWA 1273). Note that actual wage rates must be entered on FHWA 1495.
6. Contractor's EEO Policy Statement and Letter Appointing the Company's EEO Officer for the Project. (Statement must be developed by contractor per requirements of 41 CFR

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EEO OFFICER TRAINING RESOURCES

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A. FEDERAL RESOURCES:

Probably the most definitive EEO resource is the EEOC web site at www.eeoc.gov. This will take you to the EEOC home page (shown below). From there you can access a great number of EEO related facts, guidance, documents, publications, training, etc. Items of particular interest are the EEOC Training Institute, the annual EXCEL Conference, and the free resources listed below.



Equal Employment Opportunity Commission

[Contact EEOC](#) * [Youth Work](#) * [EEOC en Espanol](#) * [Other Languages](#)

About Equal Employment Opportunity (EEO)

Federal EEO Laws

Discriminatory Practices

- Harassment
or Sexual Harassment
- Retaliation

Employers and Other Entities Covered by EEO Laws

Discrimination by Type:

Facts and Guidance

Age
Disability
Equal Pay
National Origin
Pregnancy
Race
Religion
Retaliation
Sex
Sexual Harassment

Filing a Charge of Discrimination

How to File a Charge
Contact Your Local Field Office
EEOC's Charge Processing Procedures
Mediation

Employers & EEOC

Small Business
Mediation
EEOC Investigations
Surveys: EEO-1, EEO-3, EEO-4, EEO-5

